

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-2095.M5

MDR Tracking Number: M5-04-4026-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 7-23-04.

In accordance with Rule 133.308 (e), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The following date(s) of service are not timely and are not eligible for this review: 7-11-03.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic exercises, office visits, myofascial release, joint mobilization, neuromuscular re-education and manual therapy from 10-20-03 through 12-19-03 **were found** to be medically necessary. The therapeutic exercises, office visits, myofascial release, joint mobilization, neuromuscular re-education and manual therapy from 7-25-03 through 8-14-03 and the office visits 10-20-03 through 12-19-03 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003; in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (b); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service in this dispute.

This Findings and Decision is hereby issued this 13th day of October 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 7/08/03 through 10/31/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 13th day of October 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/da

NOTICE OF INDEPENDENT REVIEW DECISION

SECOND AMENDED DECISION

Date: October 1, 2004

RE:

MDR Tracking #: M5-04-4026-01

IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- A letter from ___
- E1
- Reports from ___
- TWCC forms
- Treatment notes

Submitted by Respondent:

- A letter from ___
- Treatment notes from ___
- Medical report from ___
- Treatment notes from ___

Clinical History

According to the supplied documentation, it appears that the claimant sustained an injury on ____ when he fell off of a ladder and landed on his left knee. The claimant was sent to ____ for evaluation. The claimant was treated for a short time and was released and returned to work. The claimant reported to ____ on 01/31/2003 stating that his pain was severe (8/10 with 10/10 being the worst). The claimant had a MRI performed which revealed a partial bucket-handle tear of the posterior horn of the medial meniscus. There was apparently some dispute in compensability, which was resolved on 07/03/2003 when a designated doctor (____) agreed with the treating doctor. The claimant underwent a partial medial meniscectomy on 10/13/2003 by _____. Chiropractic and physical therapy followed the operation. The documentation ends here

Requested Service(s)

Please review and address the outpatient services rendered between 07/25/2003 – 12/19/2003 including therapeutic exercises, office visits, myofascial release, joint mobilization, neuromuscular re-education and manual therapy.

Decision

I agree with the insurance carrier that the services rendered between 07/25/2003 – 08/14/2004 was not medically necessary. I also agree that all of the office visits and manual therapy billed from 10/20/2003 – 12/19/2003 were not medically necessary. I disagree with the carrier and agree with the treating doctor that the remainder of services rendered between 10/20/2003 – 12/19/2003 was medically necessary.

Rationale/Basis for Decision

According to the supplied documentation, an accepted compensable injury occurred on ____ to his left knee. A MRI dated 01/31/2003 confirmed this. The claimant began therapy in 04/2003, but after an initial trial of care, the therapy failed. The claimant had surgery performed on 10/13/2003. After the claimant was released by the operating surgeon to therapy, chiropractic therapy was begun. The claimant was treated for 8 weeks. According to the Department of Physical Therapy of MUSC http://www.muschealth.com/pt/protocols/menisectomy_and_meniscal_repair.pdf, *the initial 1-4 week should help normalize the gait pattern and increase while reducing any swelling. The second phase of care from 5-11 weeks should continue strength training and progression to normal activities while preparing the patient for discharge.* The treatment rendered in case falls within these treatment guidelines and is considered reasonable and medically necessary. The documentation supplied does not support the amount of units rendered each day and should be limited to 4 units. Any therapy over 4 units is not considered reasonable or medically necessary. Also, daily use of office visits billed 99212 is not considered reasonable. The claimant was being seen on a 3 time a week schedule and normal documentation would suffice for the progression of symptoms.